

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 102416.2 (Title)

Specific Purpose/Factual Basis:

This section title, Reporting Requirements, is adopted to include include within it reporting requirements for family child care home licensees.

Section 102416.2(a)

Specific Purpose:

This section specifies when a licensee or applicant must report to the Department if they become licensed or certified through a foster family agency as a foster family home.

Factual Basis:

Family child care home licensees are permitted to also be licensed or certified for foster care. This section is necessary to enhance the health and safety protections of children in care by enabling the Department to coordinate complaint investigations with the agencies that license or certify foster homes.

Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.2(b)

Specific Purpose:

This section specifies that a licensee must report to the Department any changes in the household composition including when adults move in or out of the home and when children living in the home turn 18 years old.

Factual Basis:

This section is necessary to enable the Department to follow up and ensure that criminal background checks are completed prior to initial presence in the licensed home or as soon as possible after a child living in the home turns 18 years of age.

Criminal background checks are required pursuant to Health and Safety Code Section 1596.871. Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.2(c)

Specific Purpose:

This section specifies the manner and time frames for reporting events specified in Sections 102416.2(a) and (b).

Factual Basis:

This section is necessary to explain how and when family child care homes licensees report the information specified in Sections 102416.2(a) and (b).

Section 102416.2(d)

Specific Purpose:

This section specifies the timeframes for the licensee to report an incident, injury, act or event to parents/authorized representatives of a child in care.

Factual Basis:

This section is necessary to implement the requirements of Health and Safety Code Section 1597.467(a) as added by AB 685. This section establishes reporting requirements for family child care home licensees whenever they have reason to believe that a child in their care has suffered any injury, or has been subjected to any act of violence.

Section 102416.2(e)

Specific Purpose:

This section provides licensees with directions and timeframes for reporting unusual incidents/injuries to the Department.

Factual Basis:

This section is necessary to provide instructions to licensees regarding how and when licensees must report incidents, injuries, acts or events to the Department pursuant to Health and Safety Code Section 1597.467(b).

Form LIC 624B (6/03), Unusual Incident/Injury Report – Family Child Care Home, is incorporated by reference and is not printed in the California Code of Regulations (CCR) or CDSS' Manual of Policies and Procedures (MPP) because it would be cumbersome and impractical; however, it is available from CDSS and CDSS' Internet Page.

Section 102416.2(e)(1) through (e)(1)(I)

Specific Purpose:

This section specifies the timeframes for licensees to report an incidents, injuries, acts or events to the Department.

Factual Basis:

This section is necessary to implement Health and Safety Code Section 1597.467. Existing family child care regulations do not require family child care home licensees to report to the Department incidents that occur during the provision of child care. Prior to the passage of AB 685, family child care home licensees were the only community care licensees that had no injury or unusual incident reporting requirements. For this reason a policy decision was made to add additional reporting requirements for family child care home licensees to further protect the health and safety of children in licensed care. In addition to the reporting requirements specified in Health and Safety Code Section 1597.467 the following events must be reported to the Department: 1) Fires or explosions occurring in or on the premises of the family child care home, 2) Epidemics or suspected outbreaks of communicable diseases involving two or more children, 3) Poisonings, 4) Catastrophes.

For more than 46,000 family child care homes licensed by the Community Care Licensing Division in California, the Department would often learn of serious or unusual incidents from external sources, usually the media or law enforcement. This section will ensure consistency in reporting for all community care facility categories and provide greater protections for children in care.

Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.2(e)(2) through (e)(2)(G)

Specific Purpose:

This section requires licensees to include specific information when reporting unusual incidents/injuries to the Department.

Factual Basis:

This section is necessary to ensure the Department is given adequate information about the unusual incidents/injuries to determine if follow up by the Department is necessary.

Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.2(f)

Specific Purpose:

This section requires a family child care home licensee to keep a copy of the LIC 924B, Unusual Incident/Injury Report – Family Child Care Home or the letter used to report the incident to the Department, in the child's file at the family child care home.

Factual Basis:

This section is necessary to ensure that the licensee keeps a copy of the unusual incident/injury report in the child's file for review by the parent and the licensing agency.

Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.2(g)

Specific Purpose:

This section requires the licensee to also report any physical, sexual, or emotional abuse of any child in care to local law enforcement or children's protective services.

Factual Basis:

This section is necessary because Penal Code Section 11166 mandates that all child care custodians, including family child care home licensees, report all suspected child abuse to law enforcement or child protective services. While the Department establishes the authority for licensees to report suspected physical or sexual abuse, injuries and unusual incidents to the Department, they are still mandated by this Penal Code Section to report suspected child sexual or physical abuse to law enforcement or child protective services.

Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.2(h)

Specific Purpose:

This section requires the licensee to report fires or explosions occurring in or on the premises of the family child care home to the local fire authority or to the State Fire Marshal within 24 hours.

Factual Basis:

This section is necessary to ensure that the family child care home licensee notifies the appropriate authorities of fires or explosions in or on the premises of the family child care home, to ensure that the necessary safety precautions are in place.

Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Sections 102416.2(i) et seq.

Specific Purpose:

These sections require the licensee to report to the local health officer epidemics or suspected outbreaks involving two or more children of any communicable disease as listed in Title 17, Section 2500.

Factual Basis:

These sections are necessary because the California Code of Regulations, Title 17, Section 2500, mandates that all specified outbreaks involving two or more children must be reported to the local health officer. These sections clarify for licensees that they are mandated by the above cited law to report outbreaks to the local health officer as well as the Department.

Health and Safety Code Section 1596.81 provides the Department the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.3

Specific Purpose/Factual Basis:

This section is adopted to include requirements that need to be followed when making alterations to existing building or grounds of a family child care home.

Sections 102416.3(a) through (a)(1)(F)

Specific Purpose:

These sections specify when and under what circumstances the licensee must report changes in "off limits" areas or alterations to the family child care home (building) and grounds.

Factual Basis:

These sections are necessary to further protect the health and safety of children in licensed care because it has been the Department's experience that the first time the licensing agency becomes aware of the installation of a pool or changes to the home is either when a random visit is made to the facility, an incident occurs, or a complaint is received.

Health and Safety Code Section 1596.81 provides the Department with the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102416.3(a)(2)

Specific Purpose:

This section establishes the Department's authority to require a licensee to obtain a building inspection by a local building inspector or a fire clearance to ensure that no hazard to the health and safety of children exists as a result of the alteration, addition or construction.

Factual Basis:

This section is necessary because it has been the Department's experience that alterations to some family child care homes have been completed without a building permit and appear to be unsafe. This section allows the Department to require a building permit or fire inspection in those situations.

Health and Safety Code Section 1596.81 provides the Department with the authority to promulgate regulations necessary to protect the health and safety of children in care.

Section 102419(d)

Specific Purpose:

This section is adopted to require a family child care home licensee to provide to the parent/authorized representative of children in care the Family Child Care Consumer Awareness Information, LIC 9212 (2/05). The licensee must provide the form as part of the admissions procedure when a child is accepted into care in the family child care home.

Factual Basis:

This section is necessary to ensure that parents/authorized representatives have information about licensed child care. The form provides parents/authorized representatives with a health and safety checklist for the family child care home, a list of what the family child care home should provide, a list of suggested topics for discussion with the licensee, explanation of the licensing agency's responsibilities and how to file a complaint with the licensing agency.

Health and Safety Code Section 1596.81 provides the Department with the authority to promulgate regulations necessary to protect the health and safety of children in care.

Form LIC 9212 is incorporated by reference and is not printed in the CCR or CDSS' MPP because it would be cumbersome and impractical; however it is available from CDSS and CDSS' Internet Page.

Sections 102419(e) through (k) Renumbered from Sections 102419(d) through (j) respectively

Specific Purpose:

These sections are renumbered in order to accommodate the adoption of new Section 102419(d). New Section 102419(e) is amended to repeal obsolete language and add the latest revision date of form LIC 995E; it is also amended as well as new Section 102419(e)(1) to include the Family Child Care Consumer Awareness Information, LIC 9212 (2/05), to the documents that the licensee must give to the parents/authorized representatives at the time a child is accepted into the facility. New Sections 102419(e)(3)(A), (B), (C), (j) and (k) are amended to update cross references. New Section 102419(i)(2) is adopted to allow licensees to provide the Family Child Care Home Explanation of Removals/Exclusions and Reinstatement LIC 995D (5/03), to a child's parent/authorized representative.

Factual Basis:

The renumbering is necessary to accommodate the adoption of new Section 102419(d). New Section 102419(e) is necessary to explain when the licensee must provide the Family Child Care Consumer Awareness Information, LIC 9212 (2/05), to the child's parents/authorized representatives. New Section 102419(i)(2) is necessary to provide information to assist the licensee in explaining the criminal record exemption process to the parents/authorized representatives of children in care.

Health and Safety Code Section 1596.81 provides the Department with the authority to promulgate regulations necessary to protect the health and safety of children in care.

Form LIC 995D is incorporated by reference and is not printed in the CCR or CDSS' MPP because it would be cumbersome and impractical; however it is available from CDSS and CDSS' Internet Page.

Section 102423(b)

Specific Purpose:

This section is amended to clarify that the education and awareness handout is the Family Child Care Consumer Awareness Information, LIC 9212 (2/05).

Factual Basis:

This section is necessary to clarify that the education and awareness handout is the Family Child Care Consumer Awareness Information, LIC 9212 (2/05). This form provides parents/authorized representatives with a health and safety checklist for the family child care home, a list of what the family child care home should provide, a list of suggested topics for discussion with the licensee, explanation of what the licensing agency's responsibilities are, and how to file a complaint with the licensing agency.

b) Identification of Documents Upon Which Department Is Relying

Assembly Bill 685 (Wayne), Chapter 679, Statutes of 2001.

c) Local Mandate Statement

These regulations do constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs that require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would lessen any adverse impact on small business.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.